

Settlement Agreement
FERC Docket No. EL04-108
Seller's Choice Proceeding

This Settlement Agreement is made and entered into by and between the Department of Water Resources, a department within the Resources Agency, an agency of the State of California, with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System ("CDWR") and Semptra Generation (f/k/a Semptra Energy Resources).

1. Definitions. The following capitalized terms, when used in this Settlement Agreement, including the Exhibits, shall have the meanings specified in this Section 1. All capitalized terms used, but not otherwise defined herein, shall have the meaning given to them in the Energy Purchase Agreement, dated May 4, 2001, by and between CDWR and Semptra Generation (the "Agreement").

1.1 "Agreement" shall have the meaning set forth in Section 1 of this Settlement Agreement.

1.2 "Amendment No. 1" means the amendment to the Agreement in the form attached hereto as Exhibit A.

1.3 "Approved PVR" means the market rule that imposes a physical trade validation requirement on CAISO Settled Nodal Trades as identified, described and defined in the Cal ISO's March 15, 2005 filing with FERC made pursuant to Section 205 of the FPA in Docket No. ER02-1656-025 provided that such market rule is approved as filed, without modification or condition unacceptable to either CDWR or Semptra Generation.

1.4 "CDWR" shall have the meaning set forth in the first paragraph of this Settlement Agreement.

1.5 "Cal ISO Settled Nodal Trades" means Inter-SC Trades that are: (i) settled by the Cal ISO pursuant to applicable Cal ISO tariffs, rules or protocols at individual Nodes; (ii) comparable in form to those trades made by the Parties directly or through their respective contractors, agents or scheduling coordinators for the exchange of Energy under the Agreement; and (iii) made by market participants similarly situated to the Parties for the exchange of electricity. Cal ISO Settled Nodal Trades do not include Inter-SC Trades that are not comparable in form to those made by the Parties under the Agreement, or trades of electricity made by market participants not similarly situated to the Parties, including without limitation, trades related to metered subsystems and/or arising from virtual bidding at individual Nodes.

1.6 "Claimed Material Adverse Modification" shall have the meaning set forth in Section 6.3(c) of this Settlement Agreement.

1.7 "Claiming Party" shall have the meaning set forth in Section 6.3(a) of this Settlement Agreement.

1.8 "Comparable Nodal Trades" means bilateral energy trades that: (i) do not exist as of April 1, 2005; (ii) are settled by the Cal ISO at individual Nodes; (iii) are comparable in form to, and are used by market participants substantially as the equivalent of, Inter-SC Trades; and (iv) but for the requirements of Amendment No. 1, could be used by Sempra Generation to deliver all Energy at Nodes under the Agreement.

1.9 "Declared Section 2.12 Non-Effective Period" shall have the meaning set forth in Section 6.3(f) of this Settlement Agreement.

1.10 "Effective Date" means the date the Parties have executed this Settlement Agreement as set forth below.

1.11 "EZ Gen Hubs" mean the trading hubs established as part of the implementation of LMP on the transmission grid controlled by the Cal ISO based on generation buses in the currently existing Cal ISO Zones.

1.12 "Inter-SC Nodal Trades" means deliveries of Energy by Sempra Generation or its agents, contractors or scheduling coordinators to CDWR or its agents, contractors or scheduling coordinators by Inter-SC Trade for settlement at Nodes.

1.13 "Inter-SC Trades" means scheduling coordinator to scheduling coordinator trades of Energy between Sempra Generation, CDWR and/or their respective agents, contractors or scheduling coordinators on the transmission grid controlled by the Cal ISO that are settled by the Cal ISO pursuant to applicable Cal ISO tariffs, rules or protocols.

1.14 "LMP" or "LMP System" means locational marginal pricing, a transmission congestion management system that assigns prices to power at Nodes on the transmission system based upon resources, loads and the transmission grid configuration.

1.15 "Material Adverse Modification" shall have the meaning set forth in Section 6.3(b) of this Settlement Agreement.

1.16 "Motion" shall have the meaning set forth in Section 5.1 of this Settlement Agreement.

1.17 "New Amendment" shall have the meaning set forth in Section 6.3(e) of this Settlement Agreement.

1.18 "New Seller's Choice Proceeding" shall have the meaning set forth in Section 5.2 of this Settlement Agreement.

1.19 "New Settlement Agreement" shall have the meaning set forth in Section 6.3(e) of this Settlement Agreement.

1.20 "Nodes" means the LMP nodes assigned by the Cal ISO to physical locations on the transmission grid controlled by the Cal ISO as of the effective date of the implementation of LMP on the transmission grid controlled by the Cal ISO, as may be modified from time to time, at which Sempra Generation may deliver Energy to CDWR. Nodes do not include the Trading Hubs.

1.21 "Non-Claiming Party" shall have the meaning set forth in Section 6.3(a) of this Settlement Agreement.

1.22 "Non-Section 2.12 Nodal Deliveries" means deliveries of Energy for settlement at Nodes made during a Declared Section 2.12 Non-Effective Period without using Inter-SC Nodal Trades that are scheduled, delivered, invoiced and otherwise settled in compliance with Section 2.12(c) of Amendment No. 1 as if Section 2.12(c) of Amendment No. 1 were in effect.

1.23 "Notice of Material Adverse Modification" shall have the meaning set forth in Section 6.3(a) of this Settlement Agreement.

1.24 "Offer of Settlement" shall have the meaning set forth in Section 3 of this Settlement Agreement.

1.25 "Parties" means CDWR and Sempra Generation.

1.26 "Party" means CDWR or Sempra Generation as the context of such reference suggests.

1.27 "Physical Validation Rule" means the Approved PVR as modified from time to time.

1.28 "PVR Notice" shall have the meaning set forth in Section 6.3(a) of this Settlement Agreement.

1.29 "Related Entity" with respect to Sempra Generation, means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of ten percent (10%) or more of the outstanding capital stock or other equity interests having ordinary voting power. "Related Entity" with respect to CDWR means any State of California department, agency, commission or board.

1.30 "Scheduling Intertie Points" means any points (i) that are not Nodes, Trading Hubs, the Merchant 230-kV Delivery Point, or the Hassayampa 500-kV Delivery Point, and (ii) to which, and only to the extent that, deliveries of Energy are permitted under this Agreement.

1.31 "Section 2.12 Non-Effective Period" has the meaning provided in Section 2.1 of Amendment No. 1.

1.32 “Seller’s Choice Proceeding” means the FERC proceeding in *Public Utilities Providing Service in California under Sellers’ Choice Contracts*, Docket No. EL04-108-000 *et al.*

1.33 “TAPAS” means Transitional Alternative Pricing and Settlement as fundamentally described in the Cal ISO’s October 13, 2004 white paper entitled “Transitional Alternative Pricing and Settlement (TAPAS) Approach to Locational Marginal Pricing (LMP)”, as may be further developed by the Cal ISO.

1.34 “Term Sheet” means the Term Sheet for Settlement dated February 15, 2005 between CDWR and Semptra Generation, which outlines the principal terms of a settlement of the delivery point issues identified in the Seller’s Choice Proceeding as it relates to the Agreement by adopting the Physical Validation Rule in the event that LMP is implemented on the transmission grid controlled by the Cal ISO before October 1, 2011.

1.35 “Trading Hubs” has the meaning provided in Section 2.1 of Amendment No. 1.

1.36 “Triggering Event” shall have the meaning set forth in Section 5.2 of this Settlement Agreement.

2. Recitals.

2.1. The Parties previously entered into the Agreement, and aspects of the Agreement are at issue in the Seller’s Choice Proceeding.

2.2 The Cal ISO has filed the Physical Validation Rule with the FERC for acceptance.

2.3. The Parties have entered into the Term Sheet, which contemplates that the Parties will enter into this Settlement Agreement and Amendment No. 1.

NOW, THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

3. Offer of Settlement. The Parties agree jointly to file an offer of settlement pursuant to Rule 602 of FERC’s Rules of Practice and Procedure, 18 C.F.R. § 385.602, (the “Offer of Settlement”), not more than five (5) days after the Effective Date; provided, however, that the Parties may jointly agree to extend this deadline as appropriate. The Parties agree that the Offer of Settlement shall incorporate this Settlement Agreement by reference and shall state that the effectiveness of this Settlement Agreement and the execution of Amendment No. 1 are contingent upon FERC’s approval of the Offer of Settlement and the Physical Validation Rule. The Offer of Settlement shall also include the following non-confidential statement by Semptra Generation:

“Considering the importance of resolving the Seller’s Choice Proceeding, Semptra Generation supports the FERC’s approval of the Physical Validation Rule as a means

of settling the Seller's Choice Proceeding as to the Energy Purchase Agreement between the Parties."

If the Parties do not file the Offer of Settlement by the deadline prescribed by this Section 3, this Settlement Agreement shall be of no further force or effect, and, unless the Parties otherwise agree, the Seller's Choice Proceeding as it relates to the Agreement shall be allowed to resume.

4. Amendment of Agreement.

4.1 Conditions Precedent to the Parties' Obligations to Enter into Amendment No. 1. The occurrence of the following prior to the implementation of LMP on the transmission grid controlled by the Cal ISO shall be conditions precedent to the obligations of the Parties to enter into Amendment No. 1: (i) FERC's approval, without modification or condition unacceptable to either Party, of the Offer of Settlement; and (ii) FERC's acceptance, without modification or condition unacceptable to either Party, of the Physical Validation Rule as a market rule applicable to all Cal ISO Settled Nodal Trades; provided, however, that, in the event that FERC imposes modifications or conditions in an order approving the Offer of Settlement or an order accepting the Physical Validation Rule, such modifications or conditions shall not be considered unacceptable unless the Party asserting that such modifications or conditions are unacceptable has provided written notice to that effect to the other Party within fifteen (15) Business Days of FERC's issuance of the order imposing such modifications or conditions.

4.2 Finalizing and Executing Amendment No. 1. Unless otherwise mutually agreed, the Parties shall finalize and execute Amendment No. 1 within twenty (20) days of the later of (i) FERC's issuance of an order approving the Offer of Settlement without modification or condition unacceptable to either Party, or (ii) FERC's issuance of an order accepting the Physical Validation Rule as a market rule applicable to all Cal ISO Settled Nodal Trades without modification or condition unacceptable to either Party.

5. Seller's Choice Proceeding

5.1 Motion to Hold Seller's Choice Proceeding in Abeyance. The Parties agree to jointly file with the FERC, prior to the date on which the hearing phase of the Seller's Choice Proceeding is scheduled to commence (as that date may be extended from time to time), a motion to hold the Seller's Choice Proceeding in abeyance as to the Agreement through the end of the Term (the "Motion").

5.2 Resumption of the Seller's Choice Proceeding or Commencement of a New Seller's Choice Proceeding. It is the intent of the Parties that the Seller's Choice Proceeding shall be held in abeyance as to the Agreement until the end of the Term, subject to the resumption of the Seller's Choice Proceeding as to the Agreement or, alternatively, the commencement of a new proceeding under Section 206 of the FPA to resolve the delivery point issues identified in the Seller's Choice Proceeding (a "New Seller's Choice Proceeding") upon the occurrence of one or more of the events identified below in Section 5.2(a).

(a) Either Party shall be entitled to have the Seller's Choice Proceeding resume in accordance with Section 5.2(b) or a New Seller's Choice Proceeding commence in accordance with Section 5.2(c) upon the occurrence of any one or more of the following "Triggering Events":

- (i) The Physical Validation Rule ceases to be a market rule that is applicable to all Cal ISO Settled Nodal Trades; or
- (ii) The Cal ISO develops and implements Comparable Nodal Trades that are not subject to the Physical Validation Rule, or some substantially equivalent form of physical validation;

provided, however, that nothing in this Section 5.2 shall be construed as precluding the Parties from mutually agreeing not to resume the Seller's Choice Proceeding in accordance with Section 5.2(b) or not to commence a New Seller's Choice Proceeding in accordance with Section 5.2(c) upon the occurrence of any one or more Triggering Events.

(b) It is the intent of the Parties that, upon the occurrence of any one or more Triggering Events, either Party shall be entitled to have the Seller's Choice Proceeding cease to be held in abeyance and resume as to the Agreement, and the other Party agrees to support such resumption of the Seller's Choice Proceeding; provided, however, that neither Party's support for the resumption of, or the establishment of hearing procedures in, the Seller's Choice Proceeding as to the Agreement as a procedural mechanism for preserving the benefits of the Parties' agreement that the Seller's Choice Proceeding should be held in abeyance (but not terminated) as to the Agreement shall prejudice that Party's right to take positions in the Seller's Choice Proceedings. Notwithstanding the refund effective date established in the Seller's Choice Proceeding pursuant to Section 206(b) of the FPA, each Party agrees that any modification of the Agreement that may result from the resumption of the Seller's Choice Proceeding as to the Agreement in accordance with this Section 5.2(b) shall be effective and any associated refund liability shall accrue for the duration of, but not for any period commencing earlier or ending later than, the Section 2.12 Non-Effective Period, if any, that results from the occurrence of the Triggering Event.

(c) In the event that FERC does not hold the Seller's Choice Proceeding in abeyance as to, and until the end of the Term of, the Agreement and instead terminates the Seller's Choice Proceeding (either generally or as to the Agreement) and upon the occurrence of one or more of the Triggering Events, either Party may initiate a New Seller's Choice Proceeding, and the other Party agrees to support, as a procedural mechanism for preserving the benefits of the Parties' agreement that the Seller's Choice Proceeding should be held in abeyance (but not terminated) as to the Agreement, the initiation of, and the establishment of hearing procedures in, the New Seller's Choice Proceeding; provided, however, that neither Party's support for the initiation of, or the establishment of hearing procedures in, the New Seller's Choice Proceeding as a procedural mechanism for preserving the benefits of the Parties'

agreement that the Seller's Choice Proceeding should be held in abeyance (but not terminated) as to the Agreement shall prejudice that Party's right to take positions in the New Seller's Choice Proceedings. Notwithstanding the refund effective date established in any New Seller's Choice Proceeding pursuant to Section 206(b) of the FPA, each Party agrees that any modification of the Agreement that may result from the commencement of a New Seller's Choice Proceeding as to the Agreement in accordance with this Section 5.2(c) and any associated refund liability shall be effective and any associated refund liability shall accrue for the duration of, but not for any period commencing earlier or ending later than, the Section 2.12 Non-Effective Period, if any, that results from the occurrence of the Triggering Event.

6. The Physical Validation Rule.

6.1. Agreement to Not Oppose Implementation of Physical Validation Rule. The Parties agree that neither CDWR nor Sempra Generation shall oppose the proposed implementation of the Physical Validation Rule in public, including in proceedings before the Cal ISO and FERC; provided, however, that (i) Sempra Generation may take positions in public, including in proceedings before the Cal ISO and FERC, on the Physical Validation Rule consistent with positions taken in comments on the Physical Validation Rule submitted by Sempra Generation to the Cal ISO on December 22, 2004; and (ii) either Party may take positions in public, including in proceedings before the Cal ISO and FERC, opposing modifications to the Physical Validation Rule (as defined herein) that may be proposed by the Cal ISO or other persons and/or adopted by FERC. Nothing in this Settlement Agreement shall be construed as limiting the rights of (x) any of the Parties' respective Affiliates (other than wholly-owned subsidiaries) to oppose the proposed implementation of the Physical Validation Rule before the Cal ISO, FERC and in other fora; or (y) a Party to take positions on Cal ISO market design issues, including issues pertaining to the nature and scope of LMP, insofar as such positions are not directly in opposition to, or would not, in that Party's good faith judgment, jeopardize approval of, a Physical Validation Rule of the type contemplated herein.

6.2 Third Party Proceedings Concerning Physical Validation Rule. Unless otherwise mutually agreed by the Parties, in the event any proceeding is initiated by the Cal ISO, FERC or any third party before the Cal ISO, FERC and/or in some other fora, to modify or eliminate the Physical Validation Rule subsequent to its approval by FERC as a market rule applicable to all Cal ISO Settled Nodal Trades without modification or condition unacceptable to either Party, each Party shall oppose any such effort to modify or eliminate the Physical Validation Rule, and shall submit written opposition to any such effort, which written opposition shall also support the settlement described herein and in Amendment No. 1 and, in the event either Party claims the proposed change would constitute a Material Adverse Modification, a request for the determination required by Section 6.3(c).

6.3 Material Adverse Modification of Physical Validation Rule.

(a) No later than fifteen (15) days after the earlier of (i) the receipt of written notice or other documentation from the Cal ISO that the Cal ISO intends to seek acceptance from FERC for a modification to the Physical Validation Rule; or (ii)

the docketing with FERC of any filing in any proceeding initiated by the Cal ISO or any other entity or person that is not a Related Entity of the Party claiming that the proposed modification would constitute a Material Adverse Modification (the "Claiming Party") seeking a modification of the Physical Validation Rule (in either event a "PVR Notice"), Sempra Generation and/or CDWR, as applicable, as the Claiming Party shall provide written notice to the other Party (the "Non-Claiming Party") and to the Cal ISO that the Claiming Party believes the proposed modification would constitute a Material Adverse Modification (a "Notice of Material Adverse Modification").

(b) "Material Adverse Modification" means a modification to the Approved PVR that: (i) results from any proceeding initiated by the Cal ISO or any other entity or person that is not a Related Entity of the Claiming Party; (ii) either individually or together with one or more previously-implemented modifications to the Approved PVR is determined by FERC (A) materially and substantially to increase the Claiming Party's burdens or materially and substantially to decrease the Claiming Party's benefits under, and in relation to the value of, the Agreement (as amended by Amendment No. 1), or (B) materially and substantially to disadvantage Sempra Generation as the seller under, and in relation to the value of, the Agreement (as amended by Amendment No. 1) and/or CDWR as the buyer under, and in relation to the value of, the Agreement (as amended by Amendment No. 1) relative to other market participants similarly situated to Sempra Generation and/or CDWR; and (iii) is ordered by FERC and takes effect on or before September 30, 2011; provided, however, that a Material Adverse Modification shall not have occurred, and may not be claimed by either Party, unless the Claiming Party provided the Notice of Material Adverse Modification required by Section 6.3(a) to the Non-Claiming Party and the Cal ISO no later than fifteen (15) days after the receipt of the PVR Notice.

(c) If the Cal ISO or any other entity or person that is not a Related Entity of the Claiming Party files with FERC a filing seeking a modification to the Physical Validation Rule that is, or becomes, the subject of a Notice of Material Adverse Modification (a "Claimed Material Adverse Modification"), each Party shall file with FERC a request that: (i) prior to issuing any decision accepting the Claimed Material Adverse Modification, FERC determine whether the Claimed Material Adverse Modification would constitute a Material Adverse Modification; and (ii) FERC make the determination contemplated in Section 6.3(c)(i) only after providing an opportunity for the Cal ISO, CDWR, Sempra Generation, the load serving entity serving as the scheduling coordinator for CDWR under the Agreement, and any other entity who wishes to do so, to provide evidence relevant to the issue; provided, however, that neither Party's obligation to make such requests shall eliminate, or affect in any way, each Party's obligation to oppose efforts to modify or eliminate the Physical Validation Rule in accordance with the provisions set forth in Section 6.2.

(d) If FERC determines the Claimed Material Adverse Modification is or would be a Material Adverse Modification, FERC shall provide notice of such determination to the Cal ISO, CDWR, Sempra Generation and any other entity that submitted evidence on the issue.

(e) If FERC determines that the Claimed Material Adverse Modification is or would be a Material Adverse Modification, then concurrent with making a determination that it will accept the Claimed Material Adverse Modification, after accepting evidence from Sempra Generation and CDWR relevant to the issues to be determined in the following Section 6.3(e)(i), FERC shall: (i) determine how the Agreement and Settlement Agreement should be modified, considering the intent of the Parties as expressed in the Settlement Agreement and Amendment No. 1, so as to best preserve the benefits and burdens of the Parties under this Settlement Agreement and the Agreement (as amended by Amendment No. 1); and (ii) order the Parties to execute amendments to this Settlement Agreement and Agreement (as amended by Amendment No. 1) consistent with FERC's determinations made pursuant to Section 6.3(e)(i), ("New Settlement Agreement" and "New Amendment", respectively). The Parties expressly acknowledge, and agree not to challenge, during the Term FERC's ongoing jurisdiction and authority to make the determinations and orders contemplated in Section 6.3(e)(i) and Section 6.3(e)(ii); provided, however, that if acceptance from FERC of the Claimed Material Adverse Modification is requested on an expedited basis, then FERC shall take the evidence and make the determinations and orders contemplated in Sections 6.3(c)(i), 6.3(c)(ii), 6.3(e)(i) and 6.3(e)(ii) as soon as practicable after accepting the Claimed Material Adverse Modification; and provided, further that the Parties' agreement not to challenge during the Term FERC's ongoing jurisdiction and authority to make the determinations and orders contemplated in Section 6.3(e)(i) and Section 6.3(e)(ii) shall not preclude either Party from exercising, nor be deemed to be a waiver of, either Party's rights to appeal from any order made pursuant to Section 6.3(e)(ii), with the exception of each Party's rights to challenge on appeal FERC's jurisdiction and authority to have entered any order made pursuant to Section 6.3(e)(ii), which rights the Parties each expressly waive. Until such time as a New Amendment and New Settlement Agreement are in effect, this Settlement Agreement and Amendment No. 1 shall be, and remain, in effect.

(f) If prior to FERC's determination of whether a Claimed Material Adverse Modification is or would be a Material Adverse Modification: (i) FERC accepts the Claimed Material Adverse Modification; and (ii) the Claimed Material Adverse Modification is in effect, upon written notice to the Non-Claiming Party, the Claiming Party, at its option, may declare a Section 2.12 Non-Effective Period (a "Declared Section 2.12 Non-Effective Period"). For any Declared Section 2.12 Non-Effective Period, the Parties' rights and obligations under the Agreement (as amended by Amendment No. 1) shall be determined as though a Section 2.12 Non-Effective Period were in effect; provided, however, that

- (i) if FERC determines that the Claimed Material Adverse Modification is a Material Adverse Modification and orders a New Amendment and New Settlement Agreement, then, upon the effective date of the New Amendment: (A) the Declared Section 2.12 Non-Effective Period shall end; and (B) the Claiming Party shall pay to the Non-Claiming Party an amount equal to the difference between (1) the total costs, including without limitation congestion costs, incurred by the Non-Claiming

Party and/or its agents, contractors or scheduling coordinators, for the Energy delivered during the Declared Section 2.12 Non-Effective Period; and (2) the total costs, including without limitation congestion costs, that would have been incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for the Energy delivered during the Declared Section 2.12 Non-Effective Period if such Energy had been scheduled and/or delivered for settlement in accordance with the provisions of the New Amendment; and

- (ii) if FERC determines that the Claimed Material Adverse Modification is not a Material Adverse Modification, then: (A) the Declared Section 2.12 Non-Effective Period shall end; and (B) the Claiming Party shall pay to the Non-Claiming Party an amount equal to the difference between (1) the total costs, including without limitation congestion costs, incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for Non-Section 2.12 Nodal Deliveries during the Declared Section 2.12 Non-Effective Period, and (2) the total costs, including without limitation congestion costs, that would have been incurred by the Non-Claiming Party and/or its agents, contractors or scheduling coordinators, for Non-Section 2.12 Nodal Deliveries during the Declared Section 2.12 Non-Effective Period if such Energy had been scheduled and/or delivered for settlement at the EZ-Gen Hubs for the respective Cal ISO Zones in which the Nodes at which such Energy was delivered reside.

7. Other Conditions.

7.1 TAPAS. This Settlement Agreement shall be of no further force or effect in the event that (i) TAPAS is implemented and maintained on the transmission grid controlled by the Cal ISO prior to, and until, the end of the Term, and/or (ii) the Cal ISO or the Cal ISO and/or FERC do not implement LMP on the transmission grid controlled by the Cal ISO before the end of the Term.

7.2 Scheduling Intertie Point Deliveries. In the event LMP is implemented and only if, and only to the extent that, the delivery of Energy to Scheduling Intertie Points is permitted under the Agreement, the Parties agree that the Physical Validation Rule shall not be required to apply to deliveries of Energy by Sempra Generation at the Scheduling Intertie Points, provided, however, that the Parties (i) acknowledge that all deliveries of Energy at the Scheduling Intertie Points are currently physical and subject to validation through applicable Western Electricity Coordinating Council and North American Electric Reliability Council protocols, and (ii) agree that deliveries of Energy at the Scheduling Intertie Points shall remain physical and continue to be subject to validation through applicable protocols upon the implementation of LMP by the Cal ISO. In the event that it is determined that deliveries to Scheduling Intertie Points are not permitted under the Agreement, then, nonetheless, the remainder of the Parties' agreement as set forth in this Settlement Agreement and Amendment No. 1 shall remain in full force and effect.

7.3 No Global Settlement. The Parties acknowledge and agree that this Settlement Agreement and Amendment No. 1 are intended to address solely the Seller's Choice Proceeding as it relates to the Agreement and are not intended as a global settlement, and shall not in and of themselves result in the resolution or dismissal of any other existing or future dispute between the Parties, and that nothing in this Settlement Agreement or Amendment No. 1 shall be deemed an admission of fact or law by either Party in any present or future dispute between the Parties arising under the Agreement. Nor is this Settlement Agreement or Amendment No. 1 intended to restrict either Party's ability to participate in the Seller's Choice Proceeding as it relates to contracts other than the Agreement, other than as set forth in Section 6.1 herein. Except as modified by Amendment No. 1, all provisions in the Agreement shall otherwise remain unchanged and the Parties reserve all rights, arguments and positions concerning the correct interpretation of those provisions.

8. Representations and Warranties. Each Party hereby represents and warrants that (i) the execution, delivery and performance by such Party of this Settlement Agreement has been duly authorized and all necessary action has been taken by such Party in connection with such authorization; (ii) this Settlement Agreement does not and will not require any consent or approval of, notice to or action by, any person or entity in order to be effective and enforceable; and (iii) when executed and delivered by such Party, this Settlement Agreement will constitute a legal, valid and binding obligation of such Party that is enforceable against it in accordance with the terms hereof and thereof.

9. Miscellaneous.

9.1 Cooperation. The Parties agree to cooperate in connection with making any other filings or taking any other actions required to allow the Parties to proceed as contemplated herein.

9.2 Notices. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the earliest of the following: (i) when personally delivered; (ii) upon actual receipt (as established by confirmation of receipt or otherwise), during normal business hours, otherwise on the first (1st) Business Day thereafter, if transmitted by facsimile or telecopier with confirmation of receipt; (iii) on the date of receipt when mailed by certified mail, return receipt requested, postage prepaid; or (iv) on the first (1st) Business Day thereafter when sent by overnight courier; in each case, to the addresses set forth in Section 9.3, or to such other addresses as a Party may from time to time specify by notice to the other Party given pursuant to this Section 9.2.

9.3 Parties' Addresses. Notices required under this Settlement Agreement shall be delivered to:

If to CDWR:

Peter S. Garris
Deputy Director
California Department of Water Resources
3310 El Camino Avenue, Suite 120

Sacramento, CA 95821
Telephone: (916) 574-2733
Fax: (916) 574-0301
E-Mail: pgarris@water.ca.gov

With a copy to:

Office of the Chief Counsel
1416 Ninth Street, Room 1118
Sacramento, CA 95814
Telephone: (916) 653-7084
Fax: (916) 654-9822
E-Mail: nsaracin@water.ca.gov

If to Sempra Generation:

William R. Engelbrecht
Vice President – Energy Supply
Sempra Generation
101 Ash Street
San Diego, CA 92101-3017
Telephone: (619) 696-4484
Fax: (619) 696-1805
E-Mail: wengelbrecht@semprageneration.com

With a copy to:

Office of the General Counsel
Sempra Energy
101 Ash Street
San Diego, CA 92101-3017
Telephone: (619) 696-4355
Fax: (619) 696-4838
E-Mail: scohen@sempra.com

9.4 Severability. Except as otherwise provided herein, in the event that any of the terms, covenants or conditions of this Settlement Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court, regulatory agency, or other regulatory body having jurisdiction, all other terms, covenants or conditions of this Settlement Agreement and their application shall not be affected thereby, but shall remain in force and effect unless a court, regulatory agency, or other regulatory body holds that the provisions are not separable from all other provisions of this Settlement Agreement.

9.5 Governing Law. To the extent not governed by federal law, this Settlement Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflict of laws principles thereof.

9.6 Entire Agreement. This Settlement Agreement contains the entire agreement between the Parties with respect to the subject matter of this Settlement Agreement, and there are no agreements, understandings, representations or warranties between the Parties other than those set forth or referred to in this document. Each of the Parties expressly disclaims any reliance upon any representations or warranties not stated in this document. This Settlement Agreement supersedes the Term Sheet, and, upon the Effective Date, the Term Sheet shall be of no further force or effect.

9.7 Successors and Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

9.8 No Third-Party Beneficiaries. This Settlement Agreement is not intended to confer upon any person or entity that is not a Party any rights or remedies hereunder, and no one, other than a Party, is entitled to rely on any representation, warranty, covenant, release, waiver or agreement contained herein. Moreover, except for the purpose of enforcing the terms and conditions of this Settlement Agreement as between and among the Parties, nothing herein shall establish any precedents, nor be deemed to be an admission of fact or law by either Party, as between the Parties and any third parties as to the resolution of any dispute that is not resolved in this Settlement Agreement.

9.9 No Waiver. Neither Party waives any claim or right in the Seller's Choice Proceeding, or in any other proceeding, concerning issues other than the issues that are the subject of this Settlement Agreement by entering into this Settlement Agreement or Amendment No. 1.

9.10 Dispute Resolution. Except for matters that would be the subject of the Seller's Choice Proceeding, or a New Seller's Choice Proceeding upon the occurrence of a Triggering Event, the Parties agree that any dispute between the Parties arising out of or relating to this Settlement Agreement shall be subject to the dispute resolution procedures provided in Article 7 of the Agreement.

9.11 Costs. Each of the Parties shall pay its own costs and expenses, including attorneys' fees, incurred in connection with the disputes that are settled herein and the negotiation, preparation and implementation of this Settlement Agreement and Amendment No. 1.

9.12 Counterparts. This Settlement Agreement may be executed in one or more counterparts, all of which will be considered one and the same agreement, and the execution of the Settlement Agreement shall become effective when one or more counterparts have been signed by each of the Parties and delivered, including by facsimile, to the other Party.

9.13 Modifications. This Settlement Agreement may be modified only by a writing signed by each of the Parties. No waiver of any provision of this Settlement Agreement or departure from any term of this Settlement Agreement shall be effective unless in writing and signed by the Parties.

9.14 Term of the Settlement Agreement. Unless terminated earlier by the provisions herein, this Settlement Agreement shall remain in full force and effect from the Effective Date through the Term of the Agreement.

9.15 Headings; Rules of Interpretation. The headings or titles of Articles or Sections used in this Settlement Agreement are for convenience only and shall be disregarded in interpreting this Settlement Agreement. The following rules of interpretation shall apply to this Settlement Agreement, including all Exhibits: (i) words used in this Settlement Agreement shall include in the singular number the plural and in the plural number the singular; (ii) the words "hereof," "herein," and "hereunder" and words of similar import when used in this Settlement Agreement, including the Exhibits, shall, unless otherwise specified, refer to this Settlement Agreement as a whole and not to any particular Article, Section, Exhibit or provision of this Settlement Agreement, and all references to Articles, Sections or Exhibits shall be to all subparts of such Articles, Sections or Exhibits; (iii) all Exhibits shall be deemed to be incorporated by reference and made a part of this Settlement Agreement; (iv) whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine and neuter forms; (v) when used herein, the words "include," "includes" and "including" shall not be limiting and shall be deemed in all instances to be followed by the phrase "without limitation;" and (vi) except as expressly otherwise provided herein, a reference to any statute, regulation, proclamation, ordinance or law includes all statutes, regulations, proclamations, amendments, ordinances or laws varying, consolidating or replacing the same from time to time, and a reference to a statute includes all regulations, policies, protocols, codes, proclamations and ordinances issued or otherwise applicable under that statute unless, in any such case, otherwise expressly provided in any such statute or in the document in which the reference is contained.

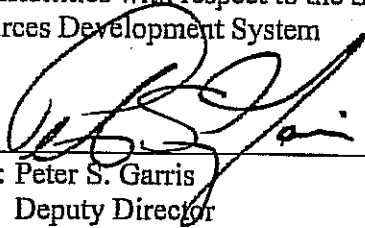
9.16 Parties Represented by Counsel. The Parties acknowledge that they have sought the advice of, and have been advised by, legal counsel of their choice in connection with the negotiation of this Settlement Agreement.

9.17 Drafting of Agreement. The Parties acknowledge that (i) this Settlement Agreement is the result of negotiations among, and has been reviewed by, each Party and its respective counsel, and (ii) each Party contributed to the drafting of this Settlement Agreement. Accordingly, this Settlement Agreement shall be deemed to be the product of each Party, and no ambiguity shall be construed in favor of or against either Party.

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IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be executed by their duly authorized representatives as of the 1st day of April 2005.

DEPARTMENT OF WATER RESOURCES with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System

By: 
Name: Peter S. Garriss
Title: Deputy Director

SEMPRA GENERATION

By: _____
Name: Michael R. Niggli
Title: President

By: _____
Name: William R. Engelbrecht
Title: Vice President – Energy Supply

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By: _____

Name: Peter S. Garris

Title: Deputy Director

SEMPRA GENERATION

Original signed by

By: _____

Name: Michael R. Niggh

Title: President

Original signed by

By: 7 _____

Name: William R. Engelbrecht

Title: Vice President – Energy Supply

EXHIBIT A

AMENDMENT TO ENERGY PURCHASE AGREEMENT

THIS AMENDMENT TO ENERGY PURCHASE AGREEMENT (the "Agreement") is made this 1st day of January, 2016, by and between the undersigned parties.

2.